

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

ELISABETH KIMMEL,

Defendant.

Case No. 1:19-CR-10080-NMG-13

*Leave to File Partially Under Seal  
Granted December 2, 2021  
(ECF No. 2449)*

**REDACTED VERSION**

**SENTENCING MEMORANDUM OF ELISABETH KIMMEL**

Defendant Elisabeth Kimmel, through her counsel, respectfully submits this Sentencing Memorandum ahead of her sentencing on December 9, 2021.

**INTRODUCTION**

Elisabeth Kimmel comes before this Court for sentencing accepting responsibility, intensely remorseful for her conduct, and as a deeply diminished version of her true self. Elisabeth entered her guilty plea before the Court on August 16, 2021, to Count One of the Fourth Superseding Indictment in so far as it charged conspiracy to commit mail and wire fraud. She is mortified at her own involvement in this scandal and the harm it has caused. The circumstances that bring her before the Court are an aberration in her life, which has been characterized by hard work, integrity, honor, and caring about and for others.

Elisabeth and the government ask that the Court impose the sentence agreed-upon in her plea agreement per Federal Rule of Criminal Procedure 11(c)(1)(C): six weeks of incarceration; followed by two years of supervised release, the first year of which to be served in home detention;

500 hours of community service; and a \$250,000 fine. For the reasons detailed below, Elisabeth respectfully submits that this sentence is “sufficient but not greater than necessary” to achieve the sentencing goals articulated in 18 U.S.C. § 3553(a).

### **APPLICATION OF THE 18 U.S.C. § 3553 FACTORS**

#### **1. The background and characteristics of Elisabeth Kimmel**

The many letters of support addressed to the Court in connection with this proceeding tell a consistent story of the life Elisabeth Kimmel has lived and who she truly is. The letters describe a friend, family member, business associate, manager, volunteer and supporter, using many of the same words: humble, hard-working, honest, generous, trusting and caring. They describe a person who, from her childhood, has strived to live a life of integrity in all that she does.

Elisabeth grew up in Champaign, Illinois with loving parents and an older brother. Her father and grandfather had worked hard, taken out loans, and after years of financial struggle, were starting to find success in the TV and radio business. Elisabeth was taught to work hard and to take nothing for granted because financial success could be fleeting. She did work hard and graduated valedictorian of her high school class. She headed West to Stanford University, where she was inducted into Phi Beta Kappa, started a business teaching aerobics while a student, tutored other students, and graduated with highest honors as a history major. After graduation, Elisabeth worked for a year as a bookkeeper before heading to Harvard Law School.

Elisabeth graduated from law school, cum laude, and began a job at a law firm in Los Angeles, where she worked long hours with little time off. Her father, on a visit for Elisabeth’s birthday and seeing how much time she was spending at work, suggested that she should put all that time and effort to work for the family business at the television and radio stations in San Diego. Elisabeth agreed and started work as the company lawyer. Around the same time, she met her future husband, Greg, then a Deputy District Attorney in Los Angeles County.

### A Dedicated Working Mother

Elisabeth and Greg were married and began their family, over time welcoming their three children into the world. Elisabeth took a short period off from work around the birth of each child but soon headed back to the family business, where, eventually, she worked her way up to President of the company. While her children were growing up, Elisabeth regularly worked 50-60 hour weeks, and often late into the night after her children were asleep, but tried always to be present in her children's lives. As her husband Greg writes, "[s]he wanted to be a good role model for our kids showing them that you could be a hard worker while still helping others." Ex. 15, Greg Kimmel letter. Jane Harvey Handley recounts Elisabeth driving the kids in the carpool to school, organizing shared dinners and sleepovers. Ex. 14, Jane Harvey Handley letter. Elisabeth was also very involved in her children's schools. She was on the Board of Trustees of their high school and a board member and President of the Hawthorne Seminar Foundation, a program for gifted learners that is part of the San Diego public school system. Although Elisabeth enjoyed her board positions, she really cherished the time she spent providing hands-on help to teachers in and out of the classroom. She volunteered as a class parent multiple times for each of her children's classes from preschool through high school. She did the needed work and helped with class snacks, field trips, extracurricular activities, book fairs, game nights, musical theatre performances, dance recitals, parents' nights and just about anything else that was asked of her.

Many of the letters submitted in support of Elisabeth describe her giving nature and selflessness. In the words of Jane Harvey Handley, Elisabeth is "a person that woke up every day ready to help someone else" and that she "has always been one of the kindest, most giving, most honest, most loyal and sweetest people I have ever met." Ex. 14; *see also* Ex. 10, Letter of Amy Lou Emanuel-Bassett.

A Pioneering Female Company Executive

At a time and in an industry with few women executives, Elisabeth ran a successful company that she made sure was a good place to work for all her employees. She also used that platform to do good in the community. Rather than running the TV and radio stations as an unapproachable chief executive, she connected with her employees on an individual level and wanted to know and help them in their individual lives. One of her former employees, Sharon Molbegott, shares in her letter how important Elisabeth's comforting words and support were after [REDACTED] Ex. 28, Letter of Sharon Molbegott. Jane Harvey Handley, a critical care nurse, also recounts two occasions in which Elisabeth provided strong support to employees during medical crises. Ex. 14, Letter of Jane Harvey Handley; *see also* Ex. 1, Letter of Jacob Ambrose.

A genuine reflection of Elisabeth's character is in the video prepared by her co-workers upon her retirement from the radio and television stations she ran. Elisabeth's co-workers took it upon themselves to create a nearly 25-minute "tribute video" for her. This video is available at <https://youtu.be/-8OGeMBZeto>. In this video, dozens of employees "top to bottom . . . voluntarily . . . shared their feelings about Elisabeth" and thank her for her mentorship and friendship. Ex. 21, Letter of Greg Lykins. They describe her as an "amazing person," "a person with a wonderful heart," "a very loving person," and "such a high integrity class act lady, I could not have asked for a better boss." They express to Elisabeth that it was "an honor to work with you," that "you took care of me and my family," and that the words "honor," "respect, admiration, dignity, trust, confidence and adoration" all "describe you and your family quite well." Dean Elwood, who worked at the station for many years writes that "Elisabeth was diligent, ethical, and professional in her business operations and decisions," and because of her "KFMB was known as the respected news and community leader in the San Diego market." Ex. 6, Letter of Dean Elwood.

In addition to supporting those who worked for her, Elisabeth used her position as chief executive of a media company to help those who couldn't help themselves. As described by Michael Gallegos, Elisabeth provided free coveted advertising to Father Joe's Villages, a local San Diego charity whose goal is to prevent and end homelessness, during NFL games. Ex. 13, Letter of Michael Gallegos. She also helped launch and promoted various initiatives at her stations: Adopt 8, a partnership with the County of San Diego to find foster homes for children awaiting adoption; Innovate 8, a program to inspire and engage K-12 students to excel in STEM learning; Earth 8, an initiative promoting environmental issues through education, outreach and stewardship; and Becky's House, a home for battered women. Michael Gallegos describes some of this work and writes that Elisabeth "is truly the softest spoken, kindest, gentle, supportive, considerate, and generous person I have known in my entire 62 years." Ex. 13. Regarding her good works, Michael Gallegos explains:

I just never knew her to say no. Her kind heart and gentle spirit always led her decision making. Simply put, San Diego became and was a much better place to live in because of Elisabeth Kimmel and her enormous generosity and concern about people and animals who were in challenging circumstances. I will also add that she never sought credit or attention for all the acts of kindness she displayed.

*Id.*

#### Elisabeth's Quiet Philanthropy and Tireless Volunteerism

Beyond her charitable work at her company, Elisabeth gave tirelessly of her time and energy as well as financially. Despite being a busy businesswoman and mother, she gave with her hands and her time whenever she could. From mentoring young women in business after her own work day ended, as described by Dr. Douglas Miller (Ex. 27, Letter of Douglas Miller), to her work as a board member and volunteer with the Family Literacy Foundation, just reading to children, Elisabeth has given so much of herself to others.

A source of particular pride for Elisabeth is her work with the Juvenile Diabetes Research

Foundation (JDRF), a cause dear to her heart after [REDACTED]

[REDACTED] Elisabeth was elected Board Chair and served the maximum allowed term of six years on the board of the San Diego chapter of JDRF. After her board term ended, Elisabeth served as chair of the Nominating Committee and various other committees until the time of her arrest. As Sean McParland, an Executive Director of JDRF International, writes, Elisabeth “volunteered countless hours in supporting our various events, speaking publicly on behalf of the T1D community and advocating for additional federal NIH funding for T1D research with our elected representatives in Congress. In addition, she has been very generous in supporting JDRF and T1D research, consistently being one of our most generous financial supporters each year for the past 15 years.” Ex. 23, Letter of Sean McParland. Mr. McParland goes on to observe: “As a leader in the nonprofit sector for 32 years, I can truly say that Elisabeth Kimmel was and is one of the most generous and caring leaders that I have had the pleasure to work with in my career.” *Id.*

Elisabeth also ensured that her children learned the importance of giving back to the community. Elisabeth and her daughter completed a six-year commitment to the National Charity League in which they organized and participated in trash pick-ups at beaches; played Bingo with senior citizens at Nazareth House; served food and washed dishes at Father Joe’s Villages; delivered meals to and spent time with seniors through Meals on Wheels; brought food to and collected personal items such as socks, scarves, and toothbrushes for homeless people with the Salvation Army; and worked weekends at Serving Seniors, where they set up and served meals to seniors living in poverty, then cleaned up afterward. Ex. 4, Letter of Maria Decker. All of these experiences were personally rewarding to Elisabeth and her daughter as well as her other children, with whom she spent many hours with her sleeves rolled up, sorting food at food banks. As Lorraine Stiehl, who served on non-profit boards alongside Elisabeth, writes: “One of the most

caring individuals I know in supporting those in need is Elisabeth Kimmel. Elisabeth strives every day to make the world a better place.” Ex. 37, Letter of Lorraine Stiehl. That is who Elisabeth is.

Elisabeth has also put her success to good use and made many significant financial contributions that improved the lives of countless people directly and indirectly. Several writers note that Elisabeth has always been a “quiet” philanthropist, never seeking attention or recognition for her good work. Jacob Ambrose writes: “She quietly helped so many employees and their families when the worst challenges arose in their personal lives.” Ex. 1, Letter of Jacob Ambrose. Although Elisabeth was a recipient of the JDRF Champion award as well as a San Diego YWCA Humanitarian award, she has never wanted public attention for her work. Stacy Robinson Price describes Elisabeth’s work for JDRF, not done for public recognition, and writes that “Elisabeth is an honorable soul in heart, mind, and deed.” Ex. 31, Letter of Stacy Robinson Price.

#### Educational Scholarships

A particular focus of Elisabeth’s philanthropy has been on education, which makes this case all the more heartbreaking and humiliating for Elisabeth. Elisabeth had a great education and she has spent a great deal of her life trying to make sure that others – not just her own children – have the benefit of a good education. Elisabeth donated significant amounts to educational institutions and until her arrest served on various volunteer boards for Stanford University and Harvard Law School. From her work on literacy and promoting STEM learning, to her service on the boards of and volunteering at schools, to her establishment and endowment of millions of dollars’ worth of educational scholarships, Elisabeth has prioritized the advancement of educational institutions and creating opportunities for others to get a great education too.

Elisabeth is especially dedicated to supporting educational opportunities for the children of those who serve our country. After Elisabeth’s husband Greg’s father (a decorated U.S. Marine)

was shot down in his airplane and killed in Vietnam, Greg struggled to work and pay for his education. Elisabeth and Greg wanted to help children like Greg from families of military veterans, so they established scholarships at various colleges for children of veterans and law enforcement. Over time, they increased these scholarships and expanded them to include military veterans attending school, including establishing such a scholarship at the University of Southern California.

Serving those who serve and sacrifice for our country is just one way in which Elisabeth's strong community values and leadership shine through. Several members of the armed services have written letters of support for her, including Roy Emanuel, who writes that "Elisabeth is someone I would like my daughters and son to emulate as a citizen, leader, spouse and parent." Ex. 8, Letter of Roy Emanuel. These characteristics have resonated with her children; Elisabeth's daughter, as detailed in her own letter, is currently in the Air Force ROTC while finishing law school and has been accepted into the Air Force JAG Corps following her graduation.

## **2. Nature and circumstances of the offense**

Elisabeth's involvement with Rick Singer has led to this dark moment in a life of goodness, honesty and integrity. She did not seek out Singer with the intent to commit any crimes and yet she allowed herself to be taken in by Singer and become a participant in his scheme. Although Elisabeth did not know all of the details, she went along with Singer's fraudulent plan. He warped her thinking and for that she has pled guilty and accepts full responsibility with profound sadness and remorse for her conduct.

## **3. The agreed-upon sentence reflects the seriousness of the offense, promotes respect for the law, and provides just punishment and adequate specific and general deterrence.**

Mrs. Kimmel respectfully submits that the Probation Department's calculation of the advisory Sentencing Guidelines is correct. Mrs. Kimmel's total offense level is 5 with zero



criminal history points, resulting in an advisory guidelines range of 0-6 months. Mrs. Kimmel's plea agreement and plea entered pursuant to Fed. R. Crim. P. 11(c)(1)(C) asks the Court to enter a sentence of six weeks' imprisonment, followed by two years of supervised release, the first year of which is to be served in home detention, along with a fine of \$250,000 and 500 hours of community service. This is a serious sentence and one that comports with the goals of sentencing as laid out in 18 U.S.C. § 3553.

If the Court accepts her "C plea" and imposes the sentence, Mrs. Kimmel will spend six weeks in federal prison and then a year in further detention in her home. That fact alone is significant and grim deterrence to Elisabeth herself and to anyone who might consider engaging in similar conduct. When her year of home detention is completed, she will have spent longer in restrictive conditions than any other defendant in these cases before this Court or any of the related cases.

As the Court is aware, Mrs. Kimmel has serious and debilitating medical conditions, which have worsened significantly during the pendency of this case. The Court knows that Mrs. Kimmel went into cardiac shock during her initial arrest, and then spent several days in the cardiac intensive care unit, before being retaken into custody for processing when she was released from hospital.

See Ex. 1 (Letter of Jacob Ambrose); Ex. 13 (Letter of Michael Gallegos); Ex. 27 (Letter of Dr. Douglas Miller). Elisabeth herself reported to Probation

as a result of the upending consequences of her conduct, along with the shame and great sadness it has caused her and her family and friends. Elisabeth has had to resign and retreat from all her philanthropic and volunteer activities and many of her business associations. Although her family and many friends, given all they know about her and the aberration of her

involvement in this case, have been unfailingly supportive, [REDACTED]  
[REDACTED]

As the government acknowledges, [REDACTED] is relevant to the Court's determination. [REDACTED] has been a significant punishment. All defendants surely suffer negative consequences when charged and convicted of crimes. Elisabeth has suffered greatly.

Given the life she has led, the person she has always been and raised her children to be, as several of the letter-writers noted, it is truly tragic that Elisabeth is involved in this case. This conduct is a black mark on an otherwise honorable and exemplary life. David Sholem writes, having known her for over 40 years as a family friend and business partner, that "Elisabeth was the absolute last person who I ever dreamed could violate federal laws and become involved in a national controversy." Ex. 36, Letter of David Sholem. Compounded by the public humiliation and countless collateral consequences, the agreed-upon sentence is a serious one that reflects the seriousness of the offense, provides adequate specific and general deterrence, and promotes respect for the law. These mitigating factors demonstrate that the punishment requested by the parties is just and adequate, tethered to the unique characteristics of the defendant, and sufficient but not greater than necessary.

### **CONCLUSION**

Elisabeth Kimmel accepts responsibility for her conduct and will come before the Court full of shame and remorse for sentencing. Many of the letter writers expressed to the Court [REDACTED]  
[REDACTED] but each was hopeful that Elisabeth can [REDACTED]  
[REDACTED] get back to being the good person she has always been, with so much left to contribute for the good of society. The agreed-upon recommendation of six weeks' incarceration,

two years of supervised release including a year of home detention, 500 hours of community service, and a \$250,000 fine, is sufficient but not greater than necessary to effectuate the purposes of 18 U.S.C. § 3553(a), to reflect the seriousness of the offense and promote respect for the law, and to provide just punishment and adequate deterrence. For the foregoing reasons, Elisabeth respectfully asks the Court to accept the agreed-upon sentence, to allow Elisabeth to serve her punishment and then to return to [REDACTED] her productive life of service to others.

Respectfully submitted,

/s/ Eóin P. Beirne

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DATED: December 3, 2021

**CERTIFICATE OF SERVICE**

I, Eóin P. Beirne, counsel for the Defendant, hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the NEF, and paper copies will be sent to those indicated as non-registered participants on December 3, 2021.

/s/ Eóin P. Beirne

Eóin P. Beirne